

James McPadden
4155 Jackson Place
Lilburn, GA 30047

**STATE OF CONNECTICUT
BOARD OF EXAMINERS FOR NURSING**

State of Connecticut
Department of Public Health
vs.
James McPadden, RN
Registered Nurse License No. E54902
Respondent.

CASE PETITION NO. 980507-010-035

MEMORANDUM OF DECISION

Procedural Background

The Board of Examiners for Nursing (hereinafter "the Board") was presented by the Department of Public Health (hereinafter "the Department") with a Statement of Charges dated November 27, 1995. The Statement of Charges alleged violations of certain provisions of Chapter 378 of the General Statutes of Connecticut by James McPadden (hereinafter "respondent") which would subject respondent's Registered Nurse license to disciplinary action pursuant to the General Statutes of Connecticut. The Board issued a Notice of Hearing dated November 29, 1995 (Dept. Exh. 1-B).

A hearing was held on April 24, 1996, in the Town Council Chambers, Wethersfield Town Hall, 505 Silas Deane Highway, Wethersfield, Connecticut. Subsequent to the hearing, the court reporting service did not produce a transcript, thereby the Board was unable to render a decision in Petition No. 951106-10-101.

The Department refiled the Statement of Charges on May 15, 1998, under Petition No. 980507-010-035. The Board issued a Notice of Hearing dated May 20, 1998, scheduling a hearing for June 17, 1998 (Dept. Exh. 1).

The hearing took place on June 17, 1998, in Room 2-A, Legislative Office Building, Capitol Avenue, Hartford, Connecticut.

Respondent was present during the hearing but was not represented by counsel (Tr., June 17, 1998).

Respondent verbally answered the Statement of Charges (Tr., June 17, 1998, pp. 7-8).

Each member of the Board involved in this decision attests that he/she was present at the hearing or has reviewed the record, and that this decision is based entirely on the record, the law, and the Board's specialized professional knowledge in evaluating the evidence.

Findings of Fact

Based on the testimony given and the exhibits offered into evidence, the Board makes the following Findings of Fact:

1. Respondent was issued Registered Nurse License Number E52922 on September 10, 1992. Respondent was the holder of said license at all times referenced in the Statement of Charges. Dept. Exh. 1-A.
2. From on or about March 23, 1995, to on or about September 28, 1995, respondent was employed as a registered nurse at Wicke Health Center, Inc., Shelton, Connecticut. Dept. Exh. 1-D1.
3. Prior to and during September 1995, respondent abused alcohol and the controlled substance cocaine. Respondent's use and abuse of alcohol and cocaine led to attendance problems while employed at Wicke Health Center, Inc. Dept. Exh. 1-D1; Rt. Ex. A-1.
4. On or about October 5, 1995, respondent was admitted to Hall-Brooke Hospital, Westport, Connecticut for treatment of cocaine dependence and alcohol abuse. Dept. Exh. 1D3.
5. On or about December 7, 1995, respondent entered the Talbot Marsh Recovery Program, Atlanta, Georgia. Respondent successfully completed treatment and was discharged on April 20, 1996. Respondent resided in a transitional living facility until September 29, 1996. Rt. Ex. A-2.
6. Pursuant to a Consent Order dated December 6, 1996, respondent was granted a registered nurse license in the State of Georgia. Upon issuance, respondent's Georgia registered nurse was placed on probation with conditions for a period of four (4) years. Respondent is in compliance with the terms of probation of his Georgia registered nurse license. Rt. Ex. A, pp. 9-18.

Conclusions of Law and Discussion

In consideration of the above Findings of Fact, the following conclusions are rendered:

James McPadden held a valid Registered Nurse license in the State of Connecticut at all times referenced in the Statement of Charges.

The Notice of Hearing and Statement of Charges provided sufficient legal notice as mandated by the General Statutes of Connecticut §4-177(a) and (b), and §4-182(c). The hearing was held in accordance

with Chapters 54 and 368a of the General Statutes of Connecticut as well as §19a-9-1 through §19a-9-29 of the Regulations of Connecticut State Agencies.

The Notice of Hearing, Statement of Charges and the hearing process provided respondent with the opportunity to demonstrate compliance with all lawful requirements for the retention of his license as required by the General Statutes of Connecticut §4-182(c).

The Department bears the burden of proof by a preponderance of the evidence in this matter.

PARAGRAPH 3 of the Statement of Charges alleges that on or about September of 1995, respondent abused alcohol and controlled substances, including cocaine.

PARAGRAPH 4 of the Statement of Charges alleges respondent's abuse of alcohol controlled substances and/or cocaine does and/or may effect his practice as a registered nurse.

Respondent admits these charges (Tr., June 17, 1998, p. 8).

The General Statutes of Connecticut §20-99 provides in relevant part:

“(a) The Board of Examiners for Nursing shall have jurisdiction to hear all charges of conduct which fails to conform to the accepted standards of the nursing profession brought against persons licensed to practice nursing. After holding a hearing... said board, if it finds such person to be guilty, may revoke or suspend his or her license or take any of the actions set forth in section 19a-17...(b) Conduct which fails to conform to the accepted standards of the nursing profession includes, but is not limited to, the following:...(2) illegal conduct, incompetence or negligence in performing usual nursing functions...(6) abuse or excessive use of drugs, including alcohol, narcotics, or chemicals....”

Based on its findings and respondent's admission, the Board concludes that respondent's conduct as alleged in Paragraphs 3 and 4 of the Statement of Charges is proven and that said conduct constitutes violations of the General Statutes of Connecticut §20-99(b)(2) and (5). Therefore, respondent's license is subject to disciplinary action pursuant to §19a-17 of the General Statutes of Connecticut.

Order

Pursuant to its authority under §19a-17 and §20-99 of the General Statutes of Connecticut, the Board of Examiners for Nursing hereby orders the following:

1. For Paragraphs 3 and 4 of the Statement of Charges, respondent's registered nurse license, No. E54902, is placed on probation for a period of four (4) years. Said probation shall run concurrently with the probation of his registered nurse license in the State of Georgia.
2. In the event respondent establishes residence in the State of Connecticut prior to completion of the probationary period, said probation will be extended for a period of six (6) months.
3. If any of the following conditions of probation are not met, respondent's registered nurse license may be subject to disciplinary action pursuant to §19a-17 of the General Statutes of Connecticut.
 - A. Respondent shall cause quarterly reports to be submitted to the Board by the Georgia Board of Nursing confirming his compliance with the conditions of probation in the State of Georgia. Said reports are due on the first business day of January, April, July and October commencing with the report due April 1, 1999.
 - B. During the period of probation the Board shall pre-approve respondent's employment within the nursing profession in the State of Connecticut.
 - C. Respondent shall provide a copy of this Memorandum of Decision to any and all employers if employed as a nurse in the State of Connecticut during the probationary period. The Board shall be notified in writing by any employer(s), within thirty (30) days of the commencement of employment, as to receipt of a copy of this Memorandum of Decision.
 - D. If employed as a nurse in the State of Connecticut, respondent shall cause quarterly employer reports to be submitted to the Board by his immediate supervisor.
 - E. The employer reports cited in Paragraph D above shall include documentation of respondent's ability to safely and competently practice nursing. Employer reports shall be submitted directly to the Board at the address cited in Paragraph L below and are due on the first business day of January, April, July and October.

- F. Should respondent's employment as a nurse be involuntarily terminated, respondent and/or her employer shall notify the Board, within seventy-two (72) hours, of such termination.
- G. Should respondent establish residence in the State of Connecticut, respondent shall, at his expense, submit to random chain of custody urine and/or blood screens for alcohol and drugs for the duration of the probationary period. Respondent shall submit to said alcohol/drug screening at least quarterly, as ordered by a therapist, and/or personal physician, and/or employer. Alcohol/drug screening may also be ordered by the Board to ensure compliance with this Order.

Random alcohol/drug screens shall be legally defensible in that chain of custody procedures must be followed throughout the screening process. Respondent shall be responsible for immediately notifying the testing laboratory, and the Board of Examiners for Nursing of any drug(s) he is taking.

Random alcohol/drug screens shall be negative for the presence of alcohol and drugs. All positive results shall be confirmed by the Gas Chromatograph Mass Spectrometer (GC/MS) testing method. Chain of custody documentation must accompany all laboratory reports and/or the laboratory reports must indicate that chain of custody procedures have been followed.

Random alcohol/drug screens must include testing for the following substances:

- Amphetamines
- Barbiturates
- Benzodiazepines
- Cannabinoids (THC Metabolites)
- Cocaine
- Meperidine (Demerol)
- Methadone
- Methaqualone
- Opiates (Metabolites)
- Phencyclidine (PCP)
- Propoxyphene
- Ethanol (alcohol)

Reports of random alcohol and drug screens shall be submitted directly to the Board, at the address cited in Paragraph L below, by respondent's therapist, personal physician or the testing laboratory.

- H. Respondent shall not obtain for personal use and/or use alcohol or any drug that has not been prescribed for him, for a legitimate purpose, by a licensed health care practitioner authorized to prescribe medications. Respondent shall not abuse and/or excessively use any drugs that are prescribed for a legitimate medical purpose.
- I. Respondent is hereby advised that the ingestion of poppy seeds may produce a positive drug screen result indicating the presence of opiates/morphine and that the ingestion of mouthwash may produce a positive result indicating the presence of alcohol. For that reason, any food substance containing poppy seeds, and mouthwash should be avoided during the probationary period. In the event that a drug/alcohol screen is positive for opiates/morphine and/or alcohol, the ingestion of poppy seeds and/or mouthwash shall not constitute a defense to such positive screen.
- J. The Connecticut Board of Examiners for Nursing must be informed in writing prior to any change of employment.
- K. The Connecticut Board of Examiners for Nursing must be informed in writing prior to any change of address.
- L. All correspondence and reports are to be addressed to:

**DEPARTMENT OF PUBLIC HEALTH
DIVISION OF HEALTH SYSTEMS REGULATION
BOARD OF EXAMINERS FOR NURSING
410 Capitol Avenue, MS #12HSR
P. O. Box 340308
Hartford CT 06134-0308**

- 4. Any deviation from the terms of probation, without prior written approval by the Board of Examiners for Nursing, shall constitute a violation of probation which will be cause for an immediate hearing on charges of violating this Order. Any finding that respondent has violated this Order will subject respondent to sanctions under §19a-17(a) and (c) of the General Statutes of Connecticut, including but not limited to, the revocation of his license. Any extension of time or grace period for reporting granted by the Board of Examiners for Nursing shall not be a waiver or preclude the Board's right to take subsequent action. The Board of Examiners for Nursing shall not be required to grant future extensions of time or grace periods. Notice of revocation or


other disciplinary action shall be sent to respondent's address of record (most current address reported to the Licensure and Registration Section of the Division of Health Systems Regulation of the Department of Public Health or the Board of Examiners for Nursing).

5. This Memorandum of Decision becomes effective on the date signed by the Board of Examiners for Nursing.

The Board of Examiners for Nursing hereby informs respondent, James McPadden, and the Department of Public Health of the State of Connecticut of this decision.

Dated at Wethersfield, Connecticut this 3rd day of February 1999.

BOARD OF EXAMINERS FOR NURSING

By 

CERTIFICATION

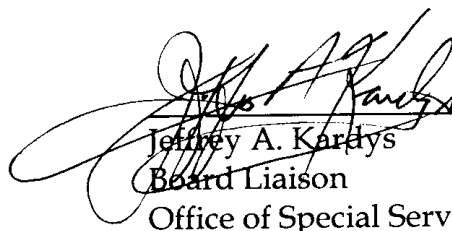
I hereby certify that, pursuant to Connecticut General Statutes §4-180(c), a copy of the foregoing Memorandum of Decision was sent this 4th day of February 1999, by certified mail, return receipt requested to:

James McPadden
4155 Jackson Place
Lilburn, GA 30047

Certified Mail Return Receipt Requested NO. P505280743

and by inter-departmental mail to:

Stanley Peck, Director
Legal Office
Department of Public Health
410 Capitol Avenue, MS #12LEG
Hartford, CT 06134



Jeffrey A. Kardys
Board Liaison
Office of Special Services - Adjudications